

# EXHIBIT 9

Highly Confidential - Marvin Gnagy

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF MICHIGAN  
3 SOUTHERN DIVISION

4 No. 5:16-cv-10444  
IN RE: FLINT WATER CASES Hon. Judith E. Levy  
5 Mag. Mona K. Majzoub

6  
7  
8  
9 HIGHLY CONFIDENTIAL  
10 VIDEOTAPED DEPOSITION OF MARVIN GNAGY  
11 VOLUME I  
12 Thursday, December 12, 2019  
13 at 9:05 a.m.

14 Taken at: Weitz & Luxenberg PC  
15 3011 West Grand Boulevard, Suite 2100  
16 Detroit, Michigan 48202

17  
18  
19  
20  
21 REPORTED BY: CAROL A. KIRK, RMR/CSR-9139  
22 GOLKOW LITIGATION SERVICES  
23 877.370.3377 ph | 917.591.5672 fax  
24 deps@golkow.com

1 Mr. Nicholas; is that right?

2 A. I -- again, I don't recall who I  
3 sent it to. It could have been Rob. It could  
4 have been somebody else within the business  
5 department, business development -- excuse me.  
6 The business development department.

7 Q. Well, we can see from the e-mail  
8 chain at the top of the page that Mr. Nicholas  
9 got it, right?

10 A. It appears to be so, yes.

11 Q. You don't know if he got it from  
12 you?

13 A. He may have gotten it from other  
14 sources as well. I don't know.

15 Q. All right. You said the RFP  
16 mentioned THM issues.

17 Do you know if it mentioned other  
18 issues as well?

19 A. I don't recall. I haven't seen  
20 the RFP for quite some time.

21 Q. Who was your client on the Flint  
22 project?

23 A. Our client was the city of Flint,  
24 Michigan.

1           Q.     Would you agree that your job was  
2     to provide the city with the best technical  
3     advice you could?

4           A.     Yes.

5           Q.     And it was your job to provide the  
6     city with the best technical advice you could  
7     even if some individuals at the city didn't like  
8     it, wasn't it?

9           A.     That's correct.

10          Q.     So if some individuals in the city  
11     didn't want to switch back to Detroit water,  
12     that wouldn't be a basis to not include the  
13     possibility of switching back to Detroit in your  
14     recommendations, would it?

15          A.     In the discussions of scope of  
16     work, we were told not to include that. We were  
17     to look at THM issues and red water occurrences.

18          Q.     Again, that wasn't my question,  
19     was it?

20          A.     I answered your question.

21          Q.     No, you didn't.

22                     My question was: So if some  
23     individuals in the city didn't want to switch  
24     back to Detroit water, that wouldn't be a basis

1 to not include the possibility of switching back  
2 to Detroit in your recommendations, would it?  
3 Yes or no?

4 MR. MCELVAINE: Objection;  
5 hypothetical.

6 Q. You can answer. Yes or no?

7 A. We did raise those possibilities  
8 with the city.

9 Q. That was not my question. My  
10 question was: The mere fact that one person or  
11 two people or ten people in the city didn't want  
12 to switch back to Detroit would not be a reason  
13 to not include the possibility of switching back  
14 to Detroit in your reports, would it?

15 A. It wouldn't preclude me from  
16 putting it in there, no, unless we were told to  
17 eliminate it.

18 Q. All right. And we'll get to  
19 whether and when you were told to eliminate it.  
20 You don't need to jump ahead. We'll cover a lot  
21 of stuff today, okay, sir?

22 You understood the results of your  
23 work would be communicated to the people of  
24 Flint, didn't you?

1     doing a history project on the Flint utility, so  
2     you can feel safe there.

3                     Do you recall identifying any  
4     other limitations on the scope of your work in  
5     your presentations to the city?

6             A.     Just defining what we believed the  
7     scope was, was to evaluate alternatives to help  
8     reduce THMs and to help reduce red water  
9     complaints.

10            Q.     And identify issues with water  
11     quality in the treatment plant and distribution  
12     system?

13            A.     Where they related to those two  
14     subjects, yes.

15            Q.     Was there somewhere where it was  
16     written down that your water quality work was  
17     limited to those two subjects?

18            A.     I believe it was written in the  
19     contract, yes.

20            Q.     What's your basis for that belief?

21            A.     It's written in the contract.

22            Q.     You read the contract?

23            A.     No.

24            Q.     So if you didn't read the

1 contract, how do you know what's written in it?

2 A. That was what we were told by Rob  
3 Nicholas when we started the project.

4 Q. So Mr. Nicholas told you that the  
5 contract said you were limited to THMs and water  
6 color?

7 A. And -- I didn't hear the last part  
8 of that.

9 Q. Water color.

10 A. Discolored water, yes.

11 Q. When did Mr. Nicholas tell you  
12 that?

13 A. At the beginning of the project.

14 Q. Was that by phone?

15 A. I don't recall whether it was by  
16 phone or whether it was when we got on site.

17 Q. Do you recall whether anyone wrote  
18 down this belief that the project was limited in  
19 that way?

20 A. I wrote it down in discussion we  
21 had with the city. I believe it was even before  
22 the contract was signed.

23 Q. Where did you write it down?

24 A. In my notes.

1 Q. We'll get to your notes in a bit.

2 Who was responsible for making  
3 sure you had the right resources for  
4 accomplishing what you had agreed to do?

5 A. Well, that would have been Rob  
6 Nicholas and myself.

7 Q. And who was responsible for  
8 deciding when your work was done?

9 A. That determination would have been  
10 made upon completion and submittal of the final  
11 report to the city, which was part of our work  
12 product.

13 Q. And when you submitted that final  
14 report, was there some process where you all sat  
15 down and got on the phone and said, "This is a  
16 good final report. It covers everything we've  
17 agreed to do"?

18 A. There were reviews to make sure  
19 that it included the recommendations and  
20 alternatives, yes.

21 Q. Who was involved in that?

22 A. It would have been a number of  
23 people. I don't recall everybody that was  
24 involved. But it would have included myself,



1 Rob, Depin Chen, likely people from corporate  
2 offices to review communications work and  
3 someone in the communications department. May  
4 have included city personnel.

5 - - -

6 (Gnagy Deposition Exhibit 2 marked.)

7 - - -

8 BY MR. MORRISSEY:

9 Q. Exhibit 2 is a January 30, 2015  
10 e-mail from you to Mr. Nasuta at 2:23 p.m. The  
11 e-mail begins referring to a "quick synopsis of  
12 the project from Andy Rouse." That's a  
13 reference to the Camden project, right?

14 A. That's correct.

15 Q. And then in the second paragraph  
16 you discuss Flint, and you say, "Flint became a  
17 PPS type project in the RFP submittal (not sure  
18 whose idea that was)."

19 Do you see that?

20 A. Yes.

21 Q. What's a PPS type project?

22 A. That's the Peer Performance  
23 Solutions, which is a consulting type service  
24 that Veolia was doing at that time.

1 and would be far too expensive for the period of  
2 time you're going to be on the Flint River."  
3 Right?

4 A. I did not make those assumptions,  
5 no.

6 Q. Okay. We'll get to your technical  
7 memo in a while then.

8 Now, Mr. Chen reached the  
9 conclusion that switching to Detroit would be a  
10 quick and safe fix to the city's water problems,  
11 didn't he?

12 A. He put those thoughts in a memo,  
13 yes.

14 Q. Did you disagree with him?

15 A. Don't necessarily disagree with  
16 him, but there was no data or complete  
17 evaluation to support that that is the option  
18 that should be recommended.

19 Q. Did you ever tell him you  
20 disagreed with him?

21 A. It wasn't a disagreement. It was,  
22 yeah, that is an alternative. It's one  
23 alternative of many. We also had discussions  
24 that, you know, the Flint River water can be

1 properly treated to provide safe drinking water  
2 under the Safe Drinking Water Act and all the  
3 requirements of monitoring and production.

4 Q. None of your reports addressed the  
5 possibility of switching back to Detroit,  
6 correct?

7 MR. MCELVAINE: Objection; asked  
8 and answered.

9 You can answer again.

10 A. Yes, we did not include that in  
11 our reports.

12 Q. You're not aware of any document  
13 that excluded switching back to Detroit in any  
14 amendment to the contract that was signed by the  
15 parties, are you?

16 A. No. We were told that by the  
17 client.

18 Q. And you say that occurred at the  
19 kickoff meeting?

20 A. It occurred at the conference call  
21 before we arrived on site. I don't recall the  
22 exact date. It also occurred on the first day  
23 of the on-site investigations. There was  
24 another issue that they also told us they did

1 not want to consider, and that was looking at  
2 ammonia feed to produce chloramination.

3 Q. If you had concluded that treating  
4 these problems in the Flint River would cost a  
5 lot more than just switching back to Detroit,  
6 are you saying you wouldn't have needed to tell  
7 the city that?

8 MR. MCELVAINE: Objection.

9 You can answer.

10 A. We gave the city what we perceived  
11 would be chemical treatment and solids handling  
12 costs for treating the Flint River as well as  
13 the KWA or whatever that reservoir water was  
14 going to be, at least the data that we could  
15 find on what that water quality might be. It  
16 did show that the KWA water would be cheaper to  
17 treat; however, it also showed that the Flint  
18 River water could be treated to provide adequate  
19 drinking water to the citizens of Flint.

20 Q. You understood it would cost  
21 millions of dollars to implement the changes you  
22 recommended, right?

23 A. I'm aware there would be some  
24 money that would have to be spent, yes. I'm

1 not -- I don't know how much. We didn't  
2 evaluate that.

3 Q. And you didn't evaluate the  
4 relative costs of switching to Detroit versus  
5 staying in Flint and implementing your changes,  
6 did you?

7 A. No, we did not.

8 Q. You did not implement -- you  
9 didn't -- sorry.

10 You did not evaluate the relative  
11 effectiveness of staying with Detroit versus  
12 implementing some or all of the changes you  
13 recommended, did you?

14 MR. MCELVAINE: Objection.

15 You can answer.

16 A. No, we didn't evaluate that.

17 Q. You knew from the get-go that at  
18 least some people from --

19 A. Excuse me.

20 Q. You knew that some people from the  
21 city didn't want to address going back to  
22 Detroit, right?

23 MR. MCELVAINE: Hold on a second.

24 Okay. You can answer.

1           A.     The people that we had  
2     communications with indicated that that was  
3     their choice, yes.

4           Q.     And who was that?

5           A.     That would have been -- well, in  
6     the kickoff meeting, Howard Croft specifically  
7     told us that.

8           Q.     Anyone else?

9           A.     Jerry Ambrose told us that.

10          Q.     And they told you it would be too  
11     expensive to go back to Detroit?

12          A.     I don't know. We were told that  
13     it would -- it was costing \$12 million a year  
14     more than using their own treatment plant, I  
15     believe were the figures. I don't know for  
16     sure.

17          Q.     Did you believe you had any  
18     obligation to advise the city if,  
19     notwithstanding the cost concerns that these  
20     individuals had expressed, you thought the best  
21     technical solution was to go back to Detroit?

22                     MR. MCELVAINE: Objection.

23                     You can answer.

24          A.     Again, I can't even say it's the

1 best technical solution. It is one alternative.  
2 It was taken off the table by the city. We  
3 didn't evaluate it any further. We looked at  
4 what it would take to treat the Flint River  
5 water to meet the THM conditions and to mitigate  
6 red water occurrences.

7 Q. But your client is the city,  
8 right? It's not these individuals?

9 A. That's correct.

10 Q. So if you concluded that going  
11 back to Detroit was the best technical solution,  
12 you would have needed to tell the city that,  
13 wouldn't you?

14 A. We told --

15 MR. MCELVAINE: Objection.

16 You can answer.

17 A. We told the officials for the city  
18 that that was a possibility.

19 Q. So you did tell the officials it  
20 was a possibility to go back to Detroit?

21 A. I told them it was one  
22 alternative. I stated that the first day on  
23 site. I also told Mr. Ambrose, before the  
24 public meeting, that that was an alternative.

1 Q. But you didn't put it in any of  
2 your reports?

3 A. It is one alternative.

4 Q. But you did not put it in any of  
5 your reports?

6 A. We did not put it in the reports.  
7 We provided information to treat the Flint River  
8 water to reduce THMs.

9 Q. None of your reports addressed the  
10 composition of the distribution system, correct?

11 MR. MCELVAINE: I'm sorry? One  
12 second.

13 Objection.

14 You can answer.

15 A. No, I believe we did state some  
16 conditions of the distribution system as far as  
17 oversized pipes, water age, possibly excess  
18 storage and treatment tanks. We knew of the  
19 numerous main breaks that they had had. They  
20 had given us numbers for the previous year. We  
21 knew of the red water occurrences. We knew of  
22 the bacteria stuff that they had found in the  
23 summer of 2014. We knew that they had problems  
24 with valves. We knew they had problems with



1 hydrants. They told us all of this.

2 Q. But you didn't --

3 A. And a lot of that information was  
4 disclosed in the report and in the public  
5 meeting.

6 Q. So your reports addressed a whole  
7 range of issues relating to the treatment plant  
8 and the distribution system?

9 A. Yes.

10 Q. You didn't mention anywhere that a  
11 significant portion of the distribution system  
12 consisted of lead piping, correct?

13 A. That's correct.

14 Q. There were a lot of breakages in  
15 the distribution system, right?

16 A. As stated by the city, yes.

17 Q. Sometimes as many as 14 a day?

18 A. We did hear that number at one  
19 point, that they had 14 in one day.

20 Q. Did you ever recommend to the city  
21 whether it should look into if corrosion was  
22 contributing to the breakages?

23 A. We had that discussion with Rob  
24 Bincsik, and he said most of these were due to

1 A. I see that.

2 Q. And you responded, "No, I don't  
3 recall a document that suggested they go back to  
4 Detroit. When we mentioned that, the emergency  
5 manager and city manager told us not to mention  
6 it again."

7 Right?

8 A. Yes.

9 Q. So you had two people that -- the  
10 emergency manager and the city manager, as you  
11 were recollecting this in January of 2016,  
12 you're referring back to that original kickoff  
13 meeting, right?

14 A. No. I'm referring to the meeting  
15 with Mr. Ambrose before the public meeting.

16 Q. All right. So in the morning of  
17 the 18th or afternoon of the 18th, they told you  
18 not to mention it?

19 A. Correct.

20 Q. But you didn't document the fact  
21 that the city had told you not to mention  
22 something?

23 A. No.

24 Q. Is it your normal practice when

1 some official at your client says, "Don't  
2 mention this thing," that you just do it?

3 A. No.

4 Q. I mean --

5 A. Again, I've already stated today  
6 that we evaluated that the Flint River was fully  
7 capable of providing drinking water meeting the  
8 drink -- the drinking water standards.

9 Q. Right. But your boss' boss is  
10 saying in 2016, "I thought I remember reading  
11 somewhere where we recommended them to go back  
12 to the original water source."

13 A. He was mistaken. There was no  
14 document stating that.

15 Q. But the -- and you correctly note  
16 that in the first sentence, but the reason you  
17 say there isn't such a document is that "the  
18 emergency manager and city manager told us not  
19 to mention it"?

20 A. That's not the reason that's in  
21 there.

22 Q. That's the only reason you  
23 mentioned there, right?

24 A. No. That's not why we didn't put

1     it in the report. I just made a mention that  
2     the emergency manager was very emphatic about  
3     it. The city told us numerous times, "We are  
4     not going back to Detroit water. We won't  
5     consider it."

6             Q.     And your colleague, Mr. Chen, had  
7     said in writing that it was the best technical  
8     solution, correct?

9             MR. MCELVAINE: Objection.  
10            You can answer.

11            A.     I've already answered that  
12     question.

13            Q.     And just so we have it somewhere  
14     within hours of the prior answer, the answer was  
15     yes, he did have that opinion written down,  
16     correct?

17            MR. MCELVAINE: Objection.  
18            You can answer.

19            A.     That's what he stated. That's his  
20     opinion without any substantial facts or  
21     evaluation.

22            Q.     And Mr. Chen, like you, is a  
23     professional engineer?

24                    Sir, Mr. Chen, like you, is a

1 professional engineer?

2 A. That's correct.

3 Q. An expert in water quality?

4 A. He has some experience and  
5 expertise in water quality, yes.

6 Q. And he's one of the two people  
7 that Veolia assigned on the technical side to  
8 address these issues, correct?

9 A. That's correct.

10 - - -

11 (Gnagy Deposition Exhibit 33 marked.)

12 - - -

13 BY MR. MORRISSEY:

14 Q. Exhibit 33 is dated January 21,  
15 2016, 12:48 p.m. This is an e-mail from  
16 Mr. Hagerty in the middle of the page where he  
17 writes to Mr. Nasuta, "Can you send me over  
18 everything that we put together on Flint. I  
19 already have Marvin's technical report."

20 Nasuta then responds -- forwards  
21 it to you. It says, "Marvin, two things: 1),  
22 do you have any documentation (e-mail, et  
23 cetera) of you or Theping telling business  
24 development that returning to Detroit water was

CERTIFICATE

I, Carol A. Kirk, a Registered Merit Reporter and Notary Public in and for the State of Michigan, duly commissioned and qualified, do hereby certify that the within-named MARVIN GNAGY was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by him was by me reduced to stenotype in the presence of said witness; that the foregoing is a true and correct transcript of the deposition so given by him; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by any attorney or party hereto or financially interested in the action; and I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Dexter, Michigan on this 27th day of December 2019.



CAROL A. KIRK, RMR, CSR-9139

NOTARY PUBLIC - STATE OF MICHIGAN

My Commission Expires: August 19, 2022.

- - -

1 Q. Did you have any discussions with  
2 anybody at the city about what type of final  
3 plant test run they conducted prior to  
4 distributing water to the public in either late  
5 2014 -- late April or early May of 2014?

6 A. Not on a test run. Mr. Glasgow  
7 told us that they were given two weeks' notice  
8 to get the plant operating, and then they were  
9 going to be pushing water to the distribution  
10 system.

11 Q. I just want you to assume for  
12 purposes of this next question that LAN was  
13 asked to provide cost information to Raftelis  
14 Financial as part of a rate study the city was  
15 having done in the winter of 2014 -- late 2013,  
16 early 2014.

17 Do you have any awareness of that?  
18 Is that something that anybody has ever told you  
19 about?

20 A. I can't recall specifically. I do  
21 remember something about a rate study that  
22 Warren Green was telling us, and I thought that  
23 he said LAN was conducting that or did conduct  
24 that. So you jogged my memory. And I do

1     remember at least a statement that that was  
2     being done, yes.

3             Q.     Okay. So you recall that Warren  
4     Green may have alluded to it in his  
5     conversations with you?

6             A.     Yes.

7             Q.     Is Raftelis Financial a company  
8     that you're familiar with?

9             A.     I am not.

10            Q.     Yesterday in your testimony you  
11     indicated that you learned since you left Flint  
12     that the city was aware of lead results in early  
13     2015 that it did not share with you and Veolia,  
14     correct?

15            A.     That's correct.

16            Q.     And in your testimony yesterday,  
17     you referenced a test result from the Walters'  
18     residence.

19                    Do you remember that?

20            A.     I do.

21            Q.     Were there other test results that  
22     you believe the city was aware of in early 2015  
23     that it did not share with you and Veolia?

24            A.     I can't recall with the



1 information that I have looked at recently  
2 whether there were other sites within the city  
3 that U.S. EPA was investigating or not. I do  
4 know from other presentations about this event,  
5 that there were lots of lead and copper samples  
6 taken throughout the city that were elevated.

7 Q. And it's your belief that the city  
8 was withholding that information?

9 A. I think they deliberately withheld  
10 it from us, yes.

11 Q. When you saw the test results from  
12 U of M-Flint, you specifically asked the city  
13 for their lead and copper test results, correct?

14 A. I testified to that effect, that  
15 we asked for lead and copper test results at  
16 some point, yes.

17 Q. Let's turn to Number 12. Exhibit  
18 Number 12 is Mr. Gnagy's notes from February 10,  
19 2015. And the page ending 100, there's a couple  
20 slash marks, and then it says "Plant tour."

21 Do you see that?

22 A. I do see that, yes.

23 Q. So is it true that the -- on  
24 February 10, there was initially a meeting, and

1 then that meeting was immediately followed by a  
2 plant tour?

3 A. Yes.

4 Q. Okay. And on this note as well,  
5 you've listed who the attendees were from the  
6 city and from LAN, correct?

7 A. Yes.

8 Q. And from LAN, the attendees were  
9 Warren Green and Jeff Hanson, correct?

10 A. Yes.

11 Q. And then for the city, it was Mike  
12 Glasgow, Howard Croft, Duffy Johnson, Matt  
13 McFarland, Brent Wright, and Rob, and you put in  
14 parentheses "from distribution"?

15 A. Yes. That would be Rob Bincsik.

16 Q. Okay. In the second line below  
17 the names, there's a line that reads, "2003?  
18 Plant upgrades."

19 Do you see that?

20 A. Yes.

21 Q. Is that a reference to somebody  
22 providing you with a history of the upgrades  
23 that were done in the early 2000s?

24 A. To the best of my recollection,

1           A.     No, I had no problem with it. I  
2     just thought it was unusual given our previous  
3     work histories.

4           Q.     Now, was Mr. Nicholas your boss on  
5     this project, sir?

6           A.     He was not.

7           Q.     Could Mr. Nicholas overrule you on  
8     any technical issues, sir?

9           A.     He could not.

10          Q.     Did you have an understanding of  
11     the scope of work of Veolia at Flint?

12          A.     I did.

13          Q.     And how did you get that scope of  
14     work, sir?

15          A.     It was defined by the city during  
16     some communications, a conference call and at  
17     the kickoff meeting at the water plant.

18          Q.     And what was your understanding as  
19     to the scope of work, sir?

20          A.     To provide THM control  
21     recommendations and to help with red water  
22     complaints.

23          Q.     And were you aware of any  
24     limitations put on the scope of work by the city

1 of Flint?

2 A. We had been previously told that  
3 they did not want to consider returning to  
4 Detroit water as a source. We were also told  
5 they did not want to use ammonia to convert to  
6 chloramines to help use THMs.

7 Q. And you've identified some  
8 exhibits. There's a note -- a series of notes  
9 that you have, Gnagy 5, where you have some  
10 handwritten notes, correct?

11 A. Yes, that's correct.

12 Q. And do your notes from the  
13 meetings that are referenced in there -- I think  
14 there's one on 2/1/15 and another -- they're  
15 conference calls, 2/1 and 2/2. Do they  
16 reference the two limitations that you just  
17 mentioned to me, sir?

18 A. Yes. 2/1, we were told they don't  
19 want to use chloramination, which would be the  
20 ammonia feed. And 2/2 says they do not want to  
21 return to a relationship with DWSD for water  
22 source.

23 Q. Put that aside for a minute, sir.  
24 Could you find Exhibit 13, which

1 is a series of e-mails, sir. Is there an e-mail  
2 from Mr. Chen also referencing the kickoff phone  
3 call?

4 A. Yes. It's in this document.

5 Q. Can you please read to me the  
6 first sentence that he has about the kickoff  
7 phone call?

8 A. "Some background information I am  
9 aware of: It was made clear by the city during  
10 our first kickoff phone call that reconnecting  
11 to DWSD as an interim method is not an option."

12 Q. You can put that aside, sir. And  
13 does that reflect your recollection as well,  
14 sir?

15 A. Yes. That's what I put in my  
16 notes.

17 Q. And did you have any subsequent  
18 conversations with anybody from the city of  
19 Flint about not returning to Detroit water?

20 A. I had a conversation with  
21 Mr. Ambrose before the public meeting that  
22 returning to Detroit was an option.

23 Q. So that's the public meeting on  
24 February 18, 2015?

1 A. I believe that was the date, yes.

2 Q. And was it just you and

3 Mr. Ambrose in this conversation, sir?

4 A. No. There were other people in  
5 the room.

6 Q. Well, in the room versus in the  
7 conversation?

8 A. I can't say whether those people  
9 were listening or not.

10 Q. Okay. And you've previously  
11 identified the various people from the city and  
12 from Veolia who were in the room?

13 A. That's correct.

14 Q. Okay. Do you know of anybody that  
15 actually overheard your conversation with  
16 Mr. Ambrose?

17 A. I do not.

18 Q. Okay. What did, first of all, you  
19 say to Mr. Ambrose about returning to Detroit  
20 water?

21 A. I'm sorry. I didn't understand.

22 Q. Did you have any conversation with  
23 Mr. Ambrose about returning to Detroit water on  
24 February 18, 2015?

1           A.     Yes. I informed him that it was  
2     an option.

3           Q.     And what was his response, if any?

4           A.     He told me two words; "It's  
5     incomprehensible."

6           Q.     Now, sir, you're aware that there  
7     were some e-mails from Bill Fahey about the  
8     option of returning to Detroit water, correct?

9           A.     Yes. We had been through those  
10    documents.

11          Q.     Okay. In those documents, he said  
12    at one point to make it known or put on record  
13    with BD the option of returning to Detroit,  
14    correct?

15          A.     Yes.

16          Q.     I'm paraphrasing.

17          A.     Something to that nature, yes.

18          Q.     Okay. And did you discuss with BD  
19    the option of returning to Detroit water?

20          A.     Yes, I did, as I was instructed.

21          Q.     Okay. Who did you discuss it  
22    with?

23          A.     Rob Nicholas, who was BD, who was  
24    also serving as the project manager or

1 coordinator.

2 Q. Okay. And did you also bring it  
3 up with anybody with the city of Flint?

4 A. Other than Mr. Ambrose?

5 Q. No?

6 A. I don't recall.

7 Q. So Mr. Ambrose was the only one  
8 that you personally discussed it with, sir?

9 A. Yes.

10 Q. Okay. Now, sir, you're aware that  
11 lead is an issue in this case, correct?

12 A. That's correct.

13 Q. Okay. And have you reviewed any  
14 lead data -- or did you review any lead data  
15 while you were in Flint for this project?

16 A. While we were engaged in the  
17 project, yes. We reviewed routine monitoring  
18 data from the second half of 2014 that was  
19 provided to us. We also reviewed some data from  
20 University of Michigan at Flint in some of their  
21 campus buildings.

22 Q. And what was your conclusion after  
23 reviewing that data, sir?

24 A. That the monitoring results



1 all I have for you. Thank you very  
2 much.

3 - - -

4 RECROSS-EXAMINATION

5 BY MR. MORRISSEY:

6 Q. Mr. Gnagy, I have a few questions  
7 for you. I'll just take a few minutes more of  
8 your time. Just to remind you -- there's been a  
9 lot of lawyers asking you questions over the  
10 last couple days -- I'm Steve Morrissey. I'm  
11 representing the people of Flint, so I'm not  
12 going to ask you questions about what other  
13 defendants in this case did, like DEQ or state  
14 officials. I'm going to ask you about what you  
15 did.

16 Now, can you get out Exhibit 13.  
17 If you could hand it to me for a second, I can  
18 direct you to a specific part.

19 Counsel asked you about the first  
20 bullet point in Mr. Chen's 11:59 a.m. e-mail on  
21 February 13, 2015. Can you read the last bullet  
22 point which appears where my thumb is right  
23 there (indicating)?

24 A. This section here you're referring

1 to (indicating).

2 Q. Yeah. Just read it out loud.

3 A. In the bullet point, it says, "Our  
4 scope includes recommendation for operation and  
5 process improvement. There will be price tags  
6 associated with some of the process improvements  
7 which may aid the city to make decision if it  
8 wants to reconnect."

9 Q. All right. Thank you.

10 You said you had a conversation  
11 with Mr. Ambrose on the 18th about returning to  
12 Detroit?

13 A. Yes, I've stated that.

14 Q. And his only response were two  
15 words, "It's incomprehensible." That's what you  
16 said?

17 A. That's what I said, yes.

18 Q. You didn't make any record of that  
19 conversation, did you?

20 A. I had no paper and pencil at that  
21 meeting. No, I did not make a record.

22 Q. You've had access to paper,  
23 pencil, computers, phones, all kinds of things  
24 by which you can record your memory over the

1 four years since that happened, haven't you?

2 A. Yes.

3 Q. You have never recorded that  
4 conversation, have you?

5 A. I have not.

6 Q. All right. Now, you were asked  
7 some questions about Legionella. You did not  
8 ask Flint for any data or information relating  
9 to Legionella, did you?

10 A. I did not.

11 Q. You did not do anything to  
12 validate Flint's processes for avoiding  
13 Legionella?

14 A. I stated earlier that their CT  
15 records showed compliance with the CT method,  
16 and in there is included the Legionella.

17 Q. Did you do anything to validate  
18 whether those processes were being completed  
19 properly?

20 A. I did.

21 Q. Okay. Now, the problem of  
22 corrosion in water distribution systems, it's  
23 not new, is it?

24 A. It is not new.